

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

MILLENNIUM PIPELINE COMPANY, L.L.C. :

Plaintiff, :

-v- :

CIVIL ACTION

7:17-cv-09373

A PERMANENT EASEMENT FOR 0.4 ACRES :
IN THE TOWN OF MINISINK, ORANGE :
COUNTY, NEW YORK AND A PERMANENT :
EASEMENT FOR 1.02 ACRES AND, :
TEMPORARY EASEMENTS OF 1.09 AND 7.28 :
ACRES IN THE TOWN OF DEERPARK, :
COUNTY OF ORANGE, NEW YORK :

Electronically Filed

COUNTY OF ORANGE :
15 MATTHEWS STREET :
GOSHEN, NEW YORK 10924 :

AND ALL UNKNOWN OWNERS, :

Defendants :

ORDER OF TAKING AND FOR POSSESSION

WHEREAS THIS MATTER having been brought before the Court by Plaintiff, Millennium Pipeline Company, L.L.C. ("Millennium"), by Motion for Partial Summary Judgment for taking and possession of easements by January 15, 2018 pursuant to Natural Gas Act and Federal Rules of Civil Procedure 65 and 71.1;

WHEREAS Millennium has authority, under the Natural Gas Act, to exercise the power of eminent domain in this action;

WHEREAS the Court is empowered to exercise its equitable powers to enter a preliminary injunction granting Millennium immediate possession of the interests being condemned in this

action prior to the determination of the amount and payment of just compensation;

WHEREAS Millennium, the holder of a Certificate of Public Convenience and Necessity issued by the FERC on November 28, 2017 for construction of the ESU Project (the “FERC Certificate”), is in need of immediate possession of the interests being condemned in this action for the timely construction and completion of the ESU Project;

WHEREAS Millennium has been unable to reach agreements for negotiated purchase of the interests being condemned with the Defendants, and that Millennium offered Defendants at least \$3,000 for the easement interests being condemned;

WHEREAS Millennium is in need of possession of all of the interests being condemned on or before January 15, 2018 to initiate pre-construction and construction activities related to the ESU Project because the FERC Certificate requires the AIM Project to be completed and in service by November 28, 2019;

NOW THEREFORE upon review and consideration of Millennium’s Motion, and the Declarations and arguments submitted in support thereof, and good cause having been shown;

IT IS on this ____ day of January, 2018

ORDERED that

(a) Millennium’s Motion for Partial Summary Judgment in this action is granted because Millennium has the power to condemn the easement interests under the Natural Gas Act and has been unable to reach agreements for the negotiated purchase of the interests being condemned with the Defendants;

(b) Millennium is entitled to a Preliminary Injunction because Millennium is likely to succeed on the merits of its claims, will suffer irreparable harm if the requested relief is not granted, the balance of interests weigh in favor of Millennium and the public interest weighs in favor of granting Millennium immediate possession to the interests being condemned;

(c) Defendant County of Orange is hereby enjoined to immediately surrender possession of the easement that is the subject of this action and Millennium is granted immediate possession of and full rights of ingress and egress to the easements as identified in the Verified Complaint, and

(d) Defendant County of Orange, its agents and assigns and all those acting in concert with them are enjoined and restrained from interfering with site access, preconstruction or construction activities on the subject properties and attendant utility activities by Millennium, its contractors or any utility or utility contractor.

(e) Plaintiff shall post security in the amount of \$56,000.00 for the payment of just compensation to Defendant no later than January 15, 2018.

(f) Upon Plaintiff's posting of security in the amount set forth above, Plaintiff shall be entitled to receive a certified copy of this Order from the Clerk of the Federal District Court, Southern District of New York, which certified copy may then be recorded in the Deed Book at the offices of the Clerk of County of Orange as plenary evidence and record notice of Plaintiff's right to have, hold, use, occupy, possess, the permanent easement(s) and temporary easement(s) as described in Exhibit "B", a copy of which is annexed hereto.

Dated: January , 2018

SO ORDERED

Hon. Kenneth M. Karas
U.S.D.J.